

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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| NICHOLAS TRIPODES and MARIA TRIPODES, |) | |
| |) | Civil Action No. 18-404 |
| Plaintiffs, |) | Chief Magistrate Judge Maureen P. Kelly |
| |) | |
| v. |) | Re: ECF No. 29 |
| |) | |
| NVR, INC. <i>trading as</i> HEARTLAND HOMES OF PA and RITE RUG CO. <i>doing business as</i> RITE RUG FLOORING, |) | |
| |) | |
| Defendants. |) | |

ORDER

This case was closed upon Order of this Court granting Plaintiffs' Motion for Voluntary Dismissal Without Prejudice. ECF No. 28. Plaintiffs moved for voluntary dismissal because they had inadvertently commenced two actions on the same claims and wanted to rectify their error by dismissing the instant case. ECF No. 23.

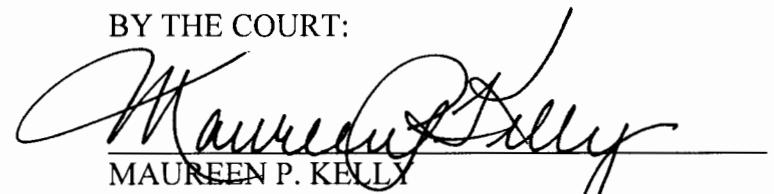
Presently before the Court is a Motion for Costs and Fees due to Plaintiffs' Voluntary Dismissal pursuant to Fed.R.Civ.P. 41(a)(2) filed by Defendant NVR, Inc. ("NVR"). ECF No. 29. Also before the Court is NVR's Memorandum of Law in Support of its Motion, ECF No. 30, and Plaintiffs' Brief in Opposition to the Motion, ECF No. 32.

NVR seeks attorney's fees and costs incurred in this action, citing the Court's authority under Federal Rule of Civil Procedure 41(a)(2) to award the same as a condition of dismissal. NVR sought the same relief in its Response in Opposition to Plaintiff's Motion for Voluntary Dismissal Without Prejudice. ECF No. 27 at 5-7. This case was subsequently dismissed without conditions. NVR does not establish that this Court has the authority to now impose post-dismissal conditions, nor that such conditions are warranted.

In any event, the Court does not find that the award of fees and costs is warranted in the particular circumstances of this case, given the early stage of the case at the time of dismissal and the likelihood that the work undertaken by NVR in this case can be reused if and when, as NVR avers, "Plaintiffs will assuredly refile the same Complaint at the 2017 docket number, causing NVR to, once again, remove the matter to this Court and engage in the same Motion practice and briefing over again." ECF No. 30 at 3.

AND NOW, this 18th day of June, 2018, NVR's Motion for Costs and Fees due to Plaintiffs' Voluntary Dismissal pursuant to Fed.R.Civ.P. 41(a)(2) is DENIED.

BY THE COURT:



MAUREEN P. KELLY
CHIEF UNITED STATES MAGISTRATE JUDGE

cc: All counsel of record via CM-ECF